

Prob 12  
(Rev. 3/88)

**UNITED STATES DISTRICT COURT  
For The  
WESTERN DISTRICT OF PENNSYLVANIA**

**FILED****MAR - 4 2008**CLERK  
WEST DISTRICT OF PENNSYLVANIA**U.S.A. vs. ELVIN ALBERTO MARTINEZ****Docket No. 98-00034-002 ERIE**

**Petition on Supervised Release**

COMES NOW Theodore W. Johnson, CHIEF PROBATION OFFICER OF THE COURT, presenting an official report upon the conduct and attitude of Elvin Alberto Martinez, who was placed on supervision by the Honorable Maurice B. Cohill, Jr., sitting in the Court at Erie, Pennsylvania, on the 30th day of November 1999, who fixed the period of supervision at five years and imposed the general terms and conditions theretofore adopted by the Court and also imposed special conditions and terms as follows:

- The defendant shall not commit another federal, state, or local crime.
- The defendant shall not illegally possess a controlled substance.
- The defendant shall not possess a firearm or destructive device.
- The defendant shall participate in a program of testing and, if necessary, treatment for substance abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer. Further, the defendant shall be required to contribute to the cost of services for any such treatment in an amount determined by the probation officer but not to exceed the actual cost. The defendant shall submit to one drug urinalysis within 15 days after being placed on supervision and at least two periodic tests thereafter.
- The defendant shall pay to the United States a special assessment of \$200.

11-30-99: Conspiracy to Possess With Intent to Distribute Cocaine Base and Possess With Intent to Distribute in Excess of 50 grams of Cocaine Base; Sentenced to 72 months' custody of the Bureau of Prisons, to be followed by 5 years' supervised release.

03-23-05: Released to supervision; Currently supervised by U. S. Probation Officer David J. Conde.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT AND FOR  
CAUSE AS FOLLOWS:**

Your Petitioner reports that the supervised releasee has violated the following conditions:

**The defendant shall refrain from the excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances except as prescribed by a physician.**

**The defendant shall participate in a program of testing and, if necessary, treatment for substance abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer.**

Mr. Martinez was referred for outpatient services at Gaudenzia/Crossroad on June 19, 2007. Mr. Martinez was discharged from Gaudenzia/Crossroads on October 19, 2007, due poor attendance.

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A urine specimen obtained from Mr. Martinez on February 6, 2008, tested positive for marijuana. The positive test was confirmed by Kroll Laboratory Specialists, Incorporated, on February 16, 2008. On February 27, 2008, Mr. Martinez was confronted concerning the positive test, and he denied using marijuana.

At this time, Mr. Martinez was presented with a Probation Form 49, Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Time of Supervision (enclosed), in which the following modification of supervision was proposed: The releasee shall be placed on home detention for a period of five months, to commence upon the direction of the probation officer. During this time, the releasee shall remain at his place of residence except for employment and other activities approved in advance by the probation officer. At the direction of the probation officer, the releasee shall wear an electronic device and shall observe the rules specified by the Probation Office.

PRAYING THAT THE COURT WILL ORDER that the releasee shall be placed on home detention for a period of five months, to commence upon the direction of the probation officer. During this time, the releasee shall remain at his place of residence except for employment and other activities approved in advance by the probation officer. At the direction of the probation officer, the releasee shall wear an electronic device and shall observe the rules specified by the Probation Office.

I declare under penalty of perjury that  
the foregoing is true and correct.

Executed  
on February 28, 2008

ORDER OF COURT

Considered and ordered 5<sup>th</sup> day of  
March, 2008 and ordered filed and  
a part of the records in the above case.

Maurice B. Collier, Jr.

Senior U.S. District Judge

David J. Conde

David J. Conde  
U.S. Probation Officer

Stephen A. Lowers

Stephen A. Lowers  
Supervising U.S. Probation Officer

Place: Erie, PA